

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

LOREN IVORY MORGAN,

Plaintiff,

v.

Case No. 2:23-cv-3844

JUDGE EDMUND A. SARGUS, JR.

Magistrate Judge Chelsey M. Vascura

WILLIAM RODNEY
MCMULLEN,

Defendant.

ORDER

This matter is before the Court on the November 17, 2023, Report and Recommendation issued by the Magistrate Judge. (R&R, ECF No. 2.) The Magistrate Judge recommended that Plaintiff's Motion to for Leave to Proceed *in forma pauperis* be denied. (*Id.*) Mr. Morgan timely filed an Objection. (ECF No. 3.)

If a party objects within the allotted time to a report and recommendation, the Court “shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b). Upon review, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

In his Objection, Mr. Morgan explains that even though the Court correctly found that he had \$1,028.00 in his Huntington bank account at the time the R&R was issued, that money was saved for his rent which he paid on November 24, 2023, leaving him with an account balance of only \$104.18. (ECF No. 3, PageID 17, 22–24.) Mr. Morgan adds that he owes over \$29,000 in debt but does not specify to whom he owes this debt. (*Id.*, PageID 17.) He also failed to include

this information in his original application. (*Id.*) After paying rent, Mr. Morgan contends he cannot pay the required filing fees and thus should be allowed to proceed *in forma pauperis*. (*Id.*)

The Court has reviewed the record and analyzed the Magistrate Judge's R&R and finds the R&R to be well-reasoned. While one need not be "absolutely destitute to enjoy the benefit of [28 U.S.C. § 1915(a)]," an individual must be able to demonstrate by affidavit that because of his poverty, he cannot pay the filing fee and provide for the necessities of life. *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948). The Magistrate Judge explained that Mr. Morgan receives a monthly employment income of \$4,068.90 and has monthly expenses of around \$2,928.49, leaving \$1,140.41 as discretionary income each month. (R&R, PageID 14.) His monthly discretionary income, coupled with his cash on hand, fails to demonstrate the degree of poverty deemed necessary for *in forma pauperis* status. (*Id.*) This Court agrees.

Accordingly, Mr. Morgan's Objection is **OVERRULED**. (ECF No. 3.) The Report and Recommendation is **ADOPTED** and **AFFIRMED**. (ECF No. 2.) The motion to proceed *in forma pauperis* (ECF No. 1) is **DENIED**. Mr. Morgan is **ORDERED** to pay the \$402 filing fees (\$350 filing fee plus \$52 administrative fee) **within thirty days**. The Court **ADVISES** Mr. Morgan that if he fails to pay the filing fees in full within thirty days, his case will be dismissed for want of prosecution. The Court further **CERTIFIES** pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this Order would not be taken in good faith. This case remains open.

IT IS SO ORDERED.

12/14/2023
DATE

s/Edmund A. Sargus, Jr.
EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE